REMARKS

Claim Status

Claims 1 – 25 are pending in the application. With this Response to Office Action, these claims are presented:

1, 9, 17 and 25	Currently Amended
5-8, 21-23	Original
2-4, 10-16, 18-20 and 24	Previously Presented

Reconsideration and allowance of all pending claims is respectfully requested.

The Office Action

35 U.S.C. 103 Rejections

Claims 1, 3, 7-9, 11, 15-17, 19, and 23-25 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Bossman (US 2003/0182276) in view of Chambliss (U.S. 2005/0076154).

Claims 1, 9 and 25

The text of claim 1 recites in relevant part "operating agent software on a database server computer system, said agent software operative to collect and store

performance data". Neither Bossman nor Chambliss disclose using agent software to collect and store performance data. Bossman discloses a "database program is used to access database information maintained in one or more databases." (paragraph 024). Here, Bossman discloses accessing a database by using a database program, not using agent software on a database server system operative to collect and store performance data as recited in the text of claim 1. Database software as disclosed in Bossman includes indexes and tables (paragraph 24), but not performance data. Further Chambliss discloses using "performance gateways" (paragraph 019) which as evidence by Chambliss figure 2 are not on server computers but positioned between the storage system and the applications. (See figure 2 items 6a-6b.)

In addition, the text of claim 1 recites "correlating access times to the database objects; detecting a performance problem in the database server computer system in response to the correlating." Neither Bossman nor Chambliss disclose the recited text of claim 1. Bossman discloses using "heuristic rules to determine SQL performance problems" (paragraph 28). By definition, heuristic rules will not be based on a correlation between database objects and performance data. The text of claim 1 recites detecting database problems in response to correlating performance data to database objects. As such Bossman does not disclose the recited text of claim 1 and cannot be used as a basis for a 35 U.S.C. 103 (a) rejection of claim 1 because it does not disclose the recited elements of claim 1.

Neither Bossman nor Chambliss in combination or alone, teach, suggest or motivate one to effect the text of claim 1. There is no mention of software agents on a database server system in either application and there is nothing in either appli-

cation to suggest correlating access times to database objects. Because these elements are not mentioned, there can be no suggestion teaching or motivation to combine them.

Even if the text of claim 1 where disclosed by either Bossman or chambliss, "a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art...it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does." *KSR Intern. Co. v. Teleflex Inc.* 127 S.Ct. 1727, 1741 (U.S.,2007). Here the Office Action does not state a reason for making the combination, much less the different invention as in the text of claim 1.

In rejecting claim 1 the Office Action alleges obviousness without stating a reason why the claim text would be obvious. "Rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness" (MPEP 2143.01 § IV). Here it appears the Office Action is does not state a reason to combine Bossman and Chambliss. Accordingly Applicants request the removal of the final rejection of the present application so that a reason may be stated for the current rejection.

In view of the foregoing reasons, claims 1 is allowable and the applicants request removal of the 35 U.S.C. 103 (a) rejection of claim 1 and allowance of claim 1.

Claim 9

The text of claim 9 recites "correlating access times to the database objects; detecting a performance problem in the database server computer system in response to the correlating." Neither Bossman nor Chambliss disclose the recited text of claim 9. Bossman discloses using "heuristic rules to determine SQL performance problems" (paragraph 28). By definition, heuristic rules will not be based on a correlation between database objects and performance data. The text of claim 9 recites detecting database problems in response to correlating performance data to database objects. As such Bossman does not disclose the recited text of claim 9 and cannot be used as a basis for a 35 U.S.C. 103 (a) rejection of claim 9 because it does not disclose the recited elements of claim 9.

Neither Bossman nor Chambliss in combination or alone, teach, suggest or motivate one to effect the text of claim 9.

Even if the text of claim 9 where disclosed by either Bossman or chambliss, "a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art...it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does." *KSR Intern. Co. v. Teleflex Inc.* 127 S.Ct. 1727, 1741 (U.S.,2007). Here the Office Action does not state a reason for making the combination, much less the different invention as in the text of claim 9.

In rejecting claim 9 the Office Action alleges obviousness without stating a reason why the claim text would be obvious. "Rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness" (MPEP 2143.01 § IV). Here it appears the Office Action is does not state a reason to combine Bossman and Chambliss. Accordingly Applicants request the removal of the final rejection of the present application so that a reason may be stated for the current rejection.

In view of the foregoing reasons, claims 9 is allowable and the applicants request removal of the 35 U.S.C. 103 (a) rejection of claim 9 and allowance of claim 9.

Claim 25

The text of claim 25 recites "means for correlating said database objects to said access times; means for detecting a performance problem in the database server computer system in response to said correlation." Claims 25 recites elements similar to those of claims 1 and 9 and for the reasons stated above regarding claims 1 and 9, claim 25 is allowable and applicants request allowance of claim 25.

Claim 17

The text of claim 17 reads "monitor data access times using a software agent operative to capture performance data for the database objects; correlate performance data to the access times; detect a performance problem in the database

server in response to the correlation." Neither Bossman nor Chambliss teach or suggest the recited text of claim 1. For reasons set out above claim 17 is allowable and applicants respectfully request allowance of claim 17.

Database software as disclosed in Bossman includes indexes and tables (paragraph 24), but not performance data. Further Chambliss discloses using "performance gateways" (paragraph 019) which, as evidence by Chambliss figure 2, are not on server computers but positioned between the storage system and the applications. (See figure 2 items 6a-6b.)

In addition, the text of claim 17 recites "correlate performance data to the access times" and "detect a performance problem in the database server in response to the correlation." Neither Bossman nor Chambliss disclose the recited text of claim 17. Bossman discloses using "heuristic rules to determine SQL performance problems" (paragraph 28). By definition, heuristic rules will not be based on a correlation between database objects and performance data. The text of claim 17 recites detecting database problems in response to correlating performance data to database objects. As such Bossman does not disclose the recited text of claim 17 and cannot be used as a basis for a 35 U.S.C. 103 (a) rejection of claim 17 because it does not disclose the recited elements of claim 17.

In view of the foregoing reasons, claims 17 is allowable and the applicants request removal of the 35 U.S.C. 103 (a) rejection and allowance of claim 17.

Claims 3, 11 and 19

Claims 3, 11 and 19 are dependent claims and as such they include all the limitations of the claims from which they depend. Since the claims form which they depend are all allowable claims 3, 11 and 19 are also allowable.

Claims 2, 7-8, 10, 15-16, 18 and 23-24

Claims 2, 7-8, 10, 15-16, 18 and 23-24 are dependent claims and as such they include all the limitations of the claims from which they depend. Since the claims form which they depend are all allowable claims 3, 11 and 19 are also allowable.

Claims 4, 12 and 20

Claims 4-6, 12-14, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bossman (US 2003/0182276) in view of Do (U.S. 2004/0172636).

The text of claims 4, 12 and 20 recites "to improve performance of access to the stored data in the database server computer system comprises moving the problematic database object from heavily loaded storage components to less loaded storage components." The Office Action alleges that Do discloses the cited text of these claims and cites paragraph 8. Paragraph 8 of Do discloses changing the path to data, not moving the data itself. Changing the path involves the routing to the data and para-

graph 8 discloses "A database optimizer works to find the best access path to access data through the multiple paths." Do does not disclose moving the problematic database object, but merely discloses changing the routing to the problematic database object. As such Do does not disclose the claimed element and cannot be used as a basi for a 35 U.S.C. 103 (a) rejection of claims 4, 12 and 20.

In addition, Claims 4, 12 and 20 are dependent claims and as such they include all the limitations of the claims from which they depend. Since the claims form which they depend are all allowable claims 3, 11 and 19 are also allowable.

In view of the foregoing applicants believe claims 4, 12 and 20 are allowable and request allowance of these claims.

CONCLUSION

The applicants believe all the claims as presented here are in a condition for allowance and request removal of all rejections. The Examiner is invited and encouraged to telephone Applicant's attorney at (650) 947-0700, with any questions, or with any matter that might assist in bringing this Application to allowance.

Respectfully submitted,

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